

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-873X

**New York and Eastern Railway, LLC -Discontinuance Exemption -
In Poughkeepsie, Dutchess County, NY**

STB Docket No. AB-55 (Sub No. 652X)

**CSX Transportation, Inc., - Discontinuance Exemption -
In Poughkeepsie, Dutchess County, NY**

STB Docket No. AB-565 (Sub No. 17X)

**New York Central Lines, LLC - Abandonment Exemption -
In Poughkeepsie, Dutchess County, NY**

BACKGROUND

In this proceeding, New York and Eastern Railway, LLC (NY&E), CSX Transportation, Inc. (CSXT), and New York Central Lines, LLC (NYC), (jointly referred to as Applicants) jointly seek an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10903 to permit NY&E and CSXT to discontinue service over and NYC to abandon approximately 4.7 miles of track and railroad right-of-way (ROW) between milepost QCO 0.0 and milepost QCO 3.2 and between milepost QCK 29.5 and milepost QCK 31.0 (the line), in the City and Town of Poughkeepsie, Dutchess County, NY. NY&E and CSXT presently lease the Line from NYC. NY&E and CSXT desire to terminate their respective leases and discontinue service and NYC seeks to abandon the Line due to lack of demand for rail service. The Applicants do not expect any opposition to this request as there has been no service provided over the Line since November of 2000. A map depicting the Line in relationship to the area served is appended to the report. If the exemption becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances, upper layer of ballast, and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Applicants state in their application that the Line traverses an area described as a mixture of residential and semi-light industrial. The Applicants also state that the Line proposed for abandonment does not pass through any state forests/parks, national forests/parks, or wildlife sanctuaries.

In its Petition, the Applicants state that no service has moved on the Line since November of 2000. The Applicants, after attempting to solicit new shippers over a period of several months, believe that there is no reasonable possibility for future development of new rail traffic over this Line. The Applicants also state that the Line does not contain any Federally granted rights-of-way. The County of Dutchess, NY, has indicated interest in converting the ROW into a recreational trail.

The Applicants state that they have no knowledge of hazardous waste sites or sites where there have been known hazardous materials spills on the ROW.

The Applicants believe the abandonment, if approved, will enhance public health and safety by eliminating 10 public at-grade crossings.

There are a total of five bridges on the right-of-way, all of which are 50 years old or older. Four of the bridges are of I-beam construction and one of which is of Thru-Plate Girder construction. The Applicants believe that all of the bridges are of ordinary construction and have no historic significance or value. The New York State Parks Department, Bureau of Historic Sites (SHPO) has determined that none of the structures are eligible for listing in the National Register of Historic Places. The Applicants have stated that unless an OFA or trails agreement has been negotiated that it is their policy to remove all bridges and culverts as part of the proposed abandonment.

ENVIRONMENTAL REVIEW

The Applicants have submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the ROW. The Applicants have served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated and reviewed the record in this proceeding.

Comments have been received from the following agencies stating that the proposed abandonment will have no adverse impacts: U.S. Department of Agriculture, Natural Resources Conservation Service; New York Department of Transportation, Freight & Economic Development Division; and the New York State Parks Department, Bureau of Historic Sites. In addition, comments received from the following agencies either raised concerns or requested additional information: New York, Department of State, Coastal Management Program; Dutchess County; and the Town of Poughkeepsie

Transportation

The Applicants state that no rail movements have occurred since November 2000. Therefore SEA believes, that abandonment, as proposed, will not result in any adverse transportation related impacts.

Air Quality

The Board has established air quality and noise level threshold levels set forth at 49 CFR 1105.7(e)(5)(ii) and (e)(6). These thresholds are guidelines that are considered, along with other supporting information, to determine whether the air pollution and noise levels generated by rail traffic diverted to alternative modes warrant detailed analysis. The applicable threshold level for an attainment area when assessing air pollution is an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains per day on any segment of the rail line, or an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment.

The Applicants have stated that no shipper has received service since November 2000 therefore no corresponding impacts to air quality would occur.

Solid and Hazardous Waste

The Applicants state that they have no knowledge of any hazardous waste sites or sites where there have been know hazardous material spills on the ROW.

Cultural and Historic Resources

The National Geodetic Survey (NGS) has completed its review of the proposed abandonment and identified seven (7) geodetic survey markers.

The New York State Parks Department, Bureau of Historic Sites has completed it review and has determined that the abandonment, as proposed, will not result in any adverse impact.

Biological Resources

The U.S. Fish and Wildlife Service, Region 5 (U.S. FWS) has not completed its review of the proposed abandonment.

The New York State Department of Environmental Conservation, Endangered Species Program, has not completed its review of the proposed abandonment.

The Applicants have stated that, for rail lines in use, it is customary to spray them once a year to control the growth of vegetation within the ROW. However, as a result of no rail activity, this Line has not been sprayed to control the growth of vegetation for almost three years. Nevertheless, SEA believes that the existence of threatened or endangered species to be located within the ROW is unlikely.

Water Resources

Additionally, the U.S. Army Corps of Engineers, New York District, has indicated that the action, as proposed, will not affect jurisdictional waters or wetlands

The New York State Department of Environmental Conservation, Division of Water, has not completed its review of the proposed abandonment.

The New York, Department of State, Coastal Management Program, has requested that the Applicants complete a Federal Consistency Assessment Form in order for it to complete its review of the proposed abandonment.

Land Use

The U.S. Department of Agriculture, Natural Resources Conservation Service, has indicated that the action, as proposed, would have no impact on prime agricultural farmland.

The Town of Poughkeepsie, NY, requested that additional information be provided regarding the short term and long term strategic plan for the ROW.

CONDITIONS

In response to the concerns expressed or reviews not yet completed by following: U.S. Department of Commerce, National Geodetic Survey; U.S. Department of Interior, Fish and Wildlife Division, Region 5, New York Field Office; U.S. Army Corps of Engineers, New York District; New York State Department of Environmental Conservation, Endangered Species Program; New York State Department of Environmental Conservation, Division of Water; New York, Department of State, Coastal Management Program; and the Town of Poughkeepsie, we recommend that the following conditions be imposed on any decision granting abandonment authority.

1. New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC (Applicants) shall notify the U.S. Department of Commerce, National Geodetic Survey (NGS) prior to any salvage activities that will disturb or destroy any of the seven (7) survey markers on the right-of-way. The Applicants will allow the NGS 90 days from the issuance of any decision granting abandonment authority in this proceeding to survey the rail line for any historical benchmarks or monumentation.

2. The U.S. Fish and Wildlife Service, New York Field Office (U.S. FWS) has not completed its review. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC from salvaging or disposing of the entire right-of-way until consultation with the U.S. FWS has been completed.

3. The U.S. Army Corps of Engineers, New York District (ACOE), has not completed its review. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC from salvaging or disposing of the entire right-of-way until consultation with the ACOE has been completed.

4. The New York State Department of Environmental Conservation, Endangered Species Program (NY-DEC) has not completed its review. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC from salvaging or disposing of the entire right-of-way until consultation with the NY-DEC has been completed.

5. The New York State Department of Environmental Conservation, Division of Water (NY-DEC) has not completed its review. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC from salvaging or disposing of the entire right-of-way until consultation with the NY-DEC has been completed.

6. The New York Department of State, Coastal Management Program (NY-DOS) has not completed its review. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC from salvaging or disposing of the entire right-of-way until consultation with the NY-DOS has been completed.

7. The Town of Poughkeepsie has not completed its review. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting New York and Eastern Railway, LLC, CSX Transportation, Inc., and New York Central Lines, LLC from salvaging or disposing of the entire right-of-way until consultation with the Town of Poughkeepsie has been completed.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and subject to the recommended mitigation measures, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

Dutchess County (the County) states that the right-of-way is suitable for use as a recreational trail and/or expansion of the County Jail and planned County Forensic Center. The

County requests that the Board prohibit the Applicants from disposing of the corridor, other than the tracks, ties, and signal equipment, except for public use on reasonable terms.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Troy Brady, who prepared this environmental assessment. **Please refer to Docket Numbers AB- 873X, AB 565 Sub No. 17X, and AB-55 Sub No. 652X in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Troy Brady at (202) 565-1643.

Date made available to the public: **August 27, 2004,**

Comment due date: September 24, 2004. (30 Days)

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

